

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1610.2. MOBILEHOMES AND COMMERCIAL COACHES.

Reference: Sections 6006, 6010, 6012.2, 6012.9, 6275-6293, 6379 and 6422.1, Revenue and Taxation Code.

(a) DEFINITION. For purposes of this regulation, the following definitions govern:

(1) "MOBILEHOME" means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. A "dwelling unit" consists of one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation. "Mobilehome" does not include a recreational vehicle, commercial coach, or factory built housing as defined in Section 19971 of the Health and Safety Code.

(2) "COMMERCIAL COACH" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach. "Trailer coach" means a vehicle, other than a motor vehicle, designed for human habitation, or human occupancy for industrial, professional, or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle.

(3) "USED MOBILEHOME" means a mobilehome that was previously sold and registered or titled with the Department of Housing and Community Development, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

(4) "CURRENT RECOGNIZED VALUE GUIDE" means (1) the Kelley Blue Book Manufactured Housing and Mobilehome Guide or (2) the National Automobile Dealer Association's (NADA) Mobilehome Manufactured Housing Appraisal Guide, which is the current guide for the period in which the sale, storage, use or other consumption occurs.

(b) BASIC APPLICATION OF TAX.

(1) GENERAL EXEMPTIONS.

(A) Sales Tax. Sales tax does not apply to sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code when the retailer (as defined in Revenue and Taxation Code Section 6275) is not licensed pursuant to the Health and Safety Code as a manufacturer, manufacturer branch, dealer, dealer branch, distributor, distributor branch, representative, or representative branch. Generally, where sales tax does not apply to the sale, unless the transaction is also exempt from the use tax as provided in Subdivision (b) (1) (B) below, use tax applies to the purchase of the mobilehome or commercial coach. The purchaser is required to pay the use tax to the Department of Housing and Community Development at the time of making application for registration. (For explanation regarding payment of tax by purchaser, see Subdivision (c) below.)

(B) Sales and Use Tax. Neither sales tax nor use tax applies to the sale or use of:

1. Mobilehomes and commercial coaches sold by the parent, grandparent, child, grandchild, or spouse of the purchaser, or by the brother or sister of the purchaser if both are under the age of 18 and are related by blood or adoption, where the seller is not engaged in the business of selling the type of property for which the exemption is claimed. Claimants of this exemption must submit satisfactory evidence of relationship.

2. Mobilehomes and commercial coaches when included in any transfer of all or substantially all of the property held or used in the course of business activities of the transferor and when after the transfer the real and ultimate ownership remains substantially similar.

3. Used mobilehomes which are subject to property tax pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code at the time of sale.

Regulation 1610.2. (Continued)

(2) FEES. The "gross receipts" from the retailer's sale of a mobilehome and the "sales price" of a mobilehome stored, used, or otherwise consumed in this State does not include separately stated escrow fees or registration fees charged in connection with the sale of any mobilehome.

(3) NEW MOBILEHOMES.

(A) In General. Generally, unless the transaction qualifies as a sale for occupancy as a residence, or is otherwise exempt, tax applies to the gross receipts from the sale of a new mobilehome to the same extent as sales of other tangible personal property. See Subdivision (b) (3) (B) below for special rules applicable to sales of new mobilehomes for occupancy as residences.

(B) Mobilehomes Sold for Occupancy as a Residence. A mobilehome dealer is the "retailer-consumer" of any new mobilehome sold to the customer for occupancy as a residence if the transaction would otherwise have been subject to the sales tax and the mobilehome is thereafter subject to local property taxation. For a description of the conditions under which a mobilehome dealer may tender a resale certificate to a supplier, see Regulation 1668 (e).

1. Measure of Tax. The retailer-consumer is required to declare and pay tax at 75 percent of the retailer-consumer's purchase price for the period in which the qualifying sale is made to a customer. A qualifying sale is one in which the customer certifies to the retailer-consumer at the time of sale that the mobilehome is being acquired for occupancy as a residence. The retailer-consumer is not authorized to separately bill the customer for tax reimbursement.

The applicable percentage of the purchase price applies to all items which the retailer-consumer has purchased and affixed as an integral part of the mobilehome prior to sale, or pursuant to the contract of sale, such as carpeting, wall paneling, room partitions, and built-in appliances. Operative January 1, 1985, for purposes of this regulation, draperies and freestanding refrigerators and ranges shall be considered an integral part of a mobilehome. If these items are not included in the price of the mobilehome when acquired by the retailer-consumer, they must be included when computing the total amount subject to tax. The retailer-consumer's purchase price of these items also must include any labor charges for affixing the property when the labor is performed by other than the retailer-consumer.

A mobilehome dealer is the retailer of certain other items which are not an integral part of the mobilehome, such as furniture. The mobilehome dealer is also the retailer of mobilehome accessories, such as window awnings, skirting, and air conditioning units, provided these items are not affixed to a mobilehome situated on a permanent foundation or directly affixed to realty. Tax is due on the entire retail selling price to the customer.

2. Certification of Exemption. If a purchaser certifies in writing at the time of the sale that the mobilehome will be used in a manner or for a purpose entitling the retailer to report tax on the transaction based on 75 percent of the retailer's purchase price and subsequently uses the property in some other manner or for some other purpose not qualifying for the exemption, then the purchaser shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale less an amount equal to 75 percent of the sales price or gross receipts from the sale of the mobilehome to the retailer.

The following is a form of certification approved by the Board:

CERTIFICATION OF EXEMPTION
MOBILEHOME RESIDENCE PURCHASE

I hereby certify that the mobilehome that I (name of purchaser) am purchasing from (name of retailer-consumer) is being purchased for occupancy as a residence and that it will only be used for this purpose. I further certify and agree that if the property purchased under authority of this certificate is used for any other purpose, I shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale to me less an amount equal to 75 percent of the sales price or gross receipts from the sale of the mobilehome to the retailer.

Date Certificate Given:

Signed By: (name of purchaser)

Capacity:

Description of Property:

Regulation 1610.2. (Continued)

3. **Determining the Date of Sale.** Generally the tax applies upon the date of the sale of the property to the buyer. A sale takes place on the date of actual transfer of title to the property to the retailer-consumer's customer or at the time possession is transferred to the purchaser where title is retained by the retailer-consumer solely as security for the payment of the purchase price.

Transactions involving installations by dealers upon permanent foundation systems are subject to tax upon installation. For purpose of such a transaction, installation shall be considered to be complete upon the date of delivery of possession of the mobilehome to the buyer or upon the date of close of escrow for the sale, whichever event first occurs.

4. **Equivalent Measure of Tax for Direct Sales By a Manufacturer.** A manufacturer is the "retailer-consumer" of any new mobilehome which he sells directly to a customer for occupancy as a residence and is required to declare and pay tax measured by an amount equal to 75 percent of the sales price or gross receipts from the sale at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

5. **Purchase of a Mobilehome From a Retailer at an Out-of-State Location.** If the out-of-state retailer is engaged in business in this state within the meaning of Revenue and Taxation Code Section 6203, the out-of-state retailer is a retailer-consumer with respect to its qualifying sales of new mobilehomes and must report and pay tax as provided in Subdivision (b) (3) (B) (1).

If the out-of-state retailer is not engaged in business in this state, then the purchaser must report and pay use tax measured by 75 percent of the out-of-state retailer's purchase price of any new mobilehome as set forth in Subdivision (b) (3) (B) (1) of this regulation. In the absence of satisfactory evidence of the out-of-state vendor's purchase price, it shall be presumed that the measure of use tax for the transaction is an amount equivalent to 60 percent of the sales price of the mobilehome to the purchaser, provided the vendor is not the manufacturer of the mobilehome. If the out-of-state vendor is the manufacturer, tax will apply as provided in Subdivision (b) (3) (B) (4) above.

(4) USED MOBILEHOMES.

(A) In General. Tax applies to the "gross receipts" from the sale of a used mobilehome and the "sales price" of a used mobilehome stored, used, or otherwise consumed in this state if, at the time of sale or use, the mobilehome is subject to annual license fees under the Health and Safety Code. Tax does not apply to the sale of a used mobilehome if, at the time of sale, the mobilehome is subject to property tax pursuant to Part 13 of Division 1 of the Revenue and Taxation Code (commencing with Section 5800); however, if, subsequent to the time of sale, the mobilehome is removed from the property tax rolls and reinstated under the annual license fee system, then tax applies in the same manner as if the mobilehome had been subject to the annual license fees at the time of sale.

Where a dealer, who is acting on its own account and not as a broker, sells a used mobilehome, the dealer is a retailer and tax applies to the retail sales price of the used mobilehome including separately stated charges for awnings, skirting, and other items of tangible personal property sold with the used mobilehome provided these items are not affixed to a mobilehome situated on a permanent foundation or directly affixed to realty. However, if a used mobilehome is sold in-place by a dealer, any separately stated values of existing real property improvements such as cement and landscaping or separately stated in-place location value are not subject to tax.

(B) Special Application of Tax to Certain Transactions Involving Used Mobilehomes.

1. **Application of Tax for the Period January 1, 1983 through December 31, 1984.** From January 1, 1983, to December 31, 1984, inclusive, "gross receipts" from the retail sale of, and "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

2. **Application of Tax for the Period January 1, 1985 through December 31, 1985.** From January 1, 1985 through December 31, 1985, inclusive, "gross receipts" from the retail sale of, and "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the sale is:

Regulation 1610.2. (Continued)

a. Through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account; or

b. Through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code; or

c. Whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development.

If the value guide does not specify the age, model, and manufacturer of a used mobilehome or if the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents.

If the total contract price includes charges for accessories or other items which are not an integral part of the mobilehome, such as in-place location value, landscaping, or furnishings, and the actual sales price of the used mobilehome is not segregated in the purchase documents, the "actual sales price" of the used mobilehome for purposes of determining the "sales price" under the provisions of the preceding paragraph shall be either the total contract price or the value specified in the value guide, whichever is lower. However, if the value of the used mobilehome is not specified in the value guide, then the "actual sales price" of the mobilehome included within the total contract price shall be determined by the Board based on information available to it.

3. Application of Tax For Periods On and After January 1, 1986. Effective January 1, 1986, "gross receipts" from the retail sale of, and "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the sale is:

a. Through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account; or

b. Through a licensed real estate broker acting pursuant to Section 10131.6 of the Business Professions Code; or

c. Whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development.

If the value guide does not specify the model or manufacturer of a used mobilehome, the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the sales price shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. "Actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

(c) PAYMENT OF TAX BY PURCHASER. Purchasers of mobilehomes and commercial coaches required to be registered annually under the Health and Safety Code, the sales of which are exempt from sales tax under Subdivision (b) (1) (A) above, shall pay tax to the Department of Housing and Community Development, acting for and on behalf of the Board, at the time of making application for registration except:

(1) When the applicant establishes that the tax is inapplicable under the general exemption in Subdivision (b) (1) (B) above; or

(2) When the applicant furnishes to the Department of Housing and Community Development a use tax exemption or tax clearance certificate issued by the Board.

A purchaser may pay the use tax and penalty, if any, to the Department of Housing and Community Development so as to secure immediate action upon the application for registration and thereafter apply to the Board for a refund of the amount so paid.

Whenever the purchaser of a commercial coach is required to pay use tax to the Department of Housing and Community Development, the sales price shall be presumed to be an amount equal to the market value of the property at the time of the purchase as that value is determined to measure the license fees imposed under Chapter 8 (commencing with Section 18075) of Part 2, Division 13, of the Health and Safety Code, multiplied by a factor of

Regulation 1610.2. (Continued)

1.8. The presumption may be rebutted by evidence which establishes that the sales price was other than such amount. This provision does not apply to commercial coaches required to be registered annually under the Health and Safety Code which are purchased outside this state from a manufacturer or dealer. The measure of tax of a purchase of a commercial coach from a bona-fide dealer outside this state is the sales price and the tax is payable to the Department of Housing and Community Development.

Whenever the purchaser of a mobilehome is required to pay use tax to the Department of Housing and Community Development, the measure of tax shall be determined in accordance with Subdivision (b) (3) or (b) (4) of this regulation, whichever is applicable.

If the purchaser of a mobilehome or commercial coach makes an application to the Department of Housing and Community Development which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the property, the purchaser then becomes liable also for penalty specified in Section 6591 of the Revenue and Taxation Code, but no interest shall accrue.

If the purchaser of a mobilehome or commercial coach does not make application to the Department of Housing and Community Development, or does not pay the amount of use tax due, or files a return with the Board under Section 6455 of the Revenue and Taxation Code which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451) of Part 1, Division 2, of the Revenue and Taxation Code.

(d) REAL PROPERTY IMPROVEMENTS ON OR TO MOBILEHOMES OR COMMERCIAL COACHES. A person who both furnishes and affixes accessories or other items as improvements or additions to land, or to a mobilehome, or a commercial coach, which rests on a permanent foundation, is a construction contractor. The application of tax to construction contracts is explained in Regulation 1521, Construction Contractors.

History: Adopted January 5, 1983, effective July 10, 1983.

Amended July 30, 1986, effective December 20, 1986. Added subdivision (a) to define specified terms. Added subdivision (b) to explain basic application of tax to sale or use of mobilehomes and commercial coaches. In subdivision (b) (1), added explanation of general exemptions from specified tax. In subdivision (b) (2), added explanation concerning separately stated escrow fees or specified registration fees. In subdivision (b) (3), added explanation concerning application of tax to sale or use of new mobilehomes.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.